

NTSB Order No. EA-5016

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 29th day of January, 2003

MARION C. BLAKEY  
Administrator,  
Federal Aviation Administration,  
  
Complainant,  
  
v.  
  
JOSEF HAGBY,  
  
Respondent.

Docket SE-16541

Respondent, appearing pro se, appeals the written Decisional Order of Administrative Law Judge Patrick G. Geraghty, issued on July 15, 2002.<sup>1</sup> By that decision, the law judge granted the Administrator's Motion for Judgment on the Pleadings and affirmed the Administrator's Order of Revocation, issued against respondent's private pilot certificate, pursuant to section

7523

61.15(a)(2) of the Federal Aviation Regulations (FARs).<sup>2</sup> We deny respondent's appeal.

The law judge's decision sets forth the factual allegations of the Administrator's complaint, all of which were admitted by respondent, so we note merely that respondent, who is currently incarcerated, admits to two criminal convictions for drug offenses related to participation in commercial drug activity. The law judge affirmed the Administrator's Order in its entirety, noting that respondent admitted to the factual underpinnings of the Administrator's complaint.

On appeal, respondent essentially argues for leniency. His brief, however, does not provide any basis for us to disturb the law judge's decision. As we stated recently in Administrator v. Uridel:

That an aircraft was not involved in the underlying criminal offense is of no moment. Respondent's convictions were for activities evidencing participation in commercial drug activity. This shows that he lacks the care,

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<sup>2</sup> FAR section 61.15, 14 C.F.R. Part 61, provides, in relevant part, as follows:

**§ 61.15 Offenses involving alcohol or drugs.**

(a) A conviction for the violation of any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is grounds for--

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(2) Suspension or revocation of any certificate or rating issued under this part.

judgment, and responsibility required of a certificate holder. See Administrator v. Piro, NTSB Order No. EA-4049 at 3-4 (1993), aff'd, 66 F.3d 335 (9<sup>th</sup> Cir. 1995). Revocation for such violations found under FAR section[] 61.15(a)(2) ... is consistent with policy and precedent. See, e.g., Administrator v. Trupej, NTSB Order No. EA-4661 (1998).

NTSB Order No. EA-4772 at 3 (1999). Accordingly, because there are no issues of fact or law, the Administrator's choice of sanction, which is consistent with both the regulation and Board precedent, is entitled to our deference.<sup>3</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied; and
2. The law judge's initial decision affirming the Administrator's Order of Revocation is affirmed.<sup>4</sup>

HAMMERSCHMIDT, Acting Chairman, and GOGLIA, BLACK, and CARMODY, Members of the Board, concurred in the above opinion and order.

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<sup>3</sup> Respondent's brief also details his efforts at drug rehabilitation, and he requests, in the alternative, that if we affirm revocation of his certificate that he "be allowed to surrender [it], accepting that [it] will be null and void from one year from said surrender." Respondent is, of course, free to reapply for his certificate after one year, and the Administrator may consider such evidence in processing any application for a new certificate respondent chooses to submit to the Federal Aviation Administration.

<sup>4</sup> For purposes of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration, pursuant to 14 C.F.R. 61.19(f).